

HOUSE COMMITTEE SUBSTITUTE

FOR

HOUSE BILL NO. 1083

AN ACT

To repeal section 67.1846, RSMo, and to enact
in lieu thereof one new section relating to
credit for franchise fees.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI,
AS FOLLOWS:

Section A. Section 67.1846, RSMo, is repealed and one new
section enacted in lieu thereof, to be known as section 67.1846,
to read as follows:

67.1846. 1. Nothing in sections 67.1830 to 67.1846
relieves the political subdivision of any obligations under an
existing franchise agreement in effect on May 1, 2001. Nothing
in sections 67.1830 to 67.1846 will apply to that portion of any
ordinance passed prior to May 1, 2001, which establishes a street
degradation fee. Nothing in sections 67.1830 to 67.1846 shall be
construed as limiting the authority of county highway engineers
or relieving public utility right-of-way users from any
obligations set forth in chapters 229 to 231, RSMo. Nothing in
sections 67.1830 to 67.1846 shall be deemed to relieve a public
utility right-of-way user of the provisions of an existing
franchise, franchise fees, license or other agreement or permit

in effect on May 1, 2001. Nothing in sections 67.1830 to 67.1846 shall prohibit a political subdivision or public utility right-of-way user from renewing or entering into a new or existing franchise, as long as all other public utility right-of-way users have use of the public right-of-way on a nondiscriminatory basis. Nothing in sections 67.1830 to 67.1846 shall prevent a grandfathered political subdivision from enacting new ordinances, including amendments of existing ordinances, charging a public utility right-of-way user a fair and reasonable linear foot fee or antenna fee or from enforcing or renewing existing linear foot ordinances for use of the right-of-way, provided that the public utility right-of-way user either:

(1) Is entitled under the ordinance to a credit for any amounts paid as business license taxes ~~[or]~~, gross receipts taxes, or franchise fees derived from gross revenues from the operation of the cable system to provide cable services; or

(2) Is not required by the political subdivision to pay the linear foot fee if the public utility right-of-way user is paying gross receipts taxes.

For purposes of this section, a "grandfathered political subdivision" is any political subdivision which has, prior to May 1, 2001, enacted one or more ordinances reflecting a policy of imposing any linear foot fees on any public utility right-of-way user, including ordinances which were specific to particular

public right-of-way users. Any existing ordinance or new ordinance passed by a grandfathered political subdivision providing for payment of the greater of a linear foot fee or a gross receipts fee shall be enforceable only with respect to the linear foot fee.

2. Nothing in sections 67.1830 to 67.1846 shall prohibit a political subdivision from enacting, renewing or enforcing provisions of an ordinance to require a business license tax, sales tax, occupation tax, franchise tax or franchise fee, property tax or other similar tax, to the extent consistent with federal law. Nothing in sections 67.1830 to 67.1846 shall prohibit a political subdivision from enacting, enforcing or renewing provisions of an ordinance to require a gross receipts tax pursuant to chapter 66, chapter 92, or chapter 94, RSMo. For purposes of this subsection, the term "franchise fee" shall mean "franchise tax".